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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/037,822	03/10/98	MOTOYAMA	S 25484.00643

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GRAHAM & JAMES
801 S FIGUEROA STREET 14TH FLOOR
LOS ANGELES CA 90017-5554

EXAMINER

WILLETT, S

ART UNIT

PAPER NUMBER

2756

DATE MAILED: 02/29/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/037,822

Applicant(s)
Motoyama

Examiner
Stephan Willett

Group Art Unit
2756



☒ Responsive to communication(s) filed on Jan 27, 2000

☒ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 3-14, 16, 17, 19, 20, and 22 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 3-14, 16, 17, 19, 20, and 22 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 8, 14, 16, 17, 19, 20 and 22 recites the limitation "first received" in lines 4.

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-14, 16-17, 19-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moline et al. with Patent Number 5,883,957 in view of Shioda with patent Number 5,430,243.

5. Regarding claim 1, Moline teaches a quasi-real time or streaming MIDI sound playing technique. Moline teaches *reception means for receiving data containing time information* as "MIDI file reader includes two subcomponents ... parser reads events in order from track, each event of course includes event message and elapsed time descriptor" at col. 6, lines 44-48 in Moline et al. Moline teaches *timer means for starting counting a time starting from*

time information derived from the data first received by said reception means as "MIDI stream generator keeps track of the last event that it output, the amount of time that has actually elapsed since it began playing the track, and the total amount of time specified by the elapsed time indicators in events played thus far", (see Moline et al. col. 6, lines 26-31). Moline teaches *setting means for setting said time of the timer means late by subtracting by a delay time* as "the delay varies . the preferred embodiment waits to begin [subtracts] playing track until enough of track has accumulated" (see Moline et al. col. 11, lines 59-64) and "beginning at the start of stored track, the time stamp of each event is added to the server start time and subtracted from the play time", col. 13, lines 12-14. Moline teaches *storage means for temporarily storing the data received by said reception means* as "the result of this operation is an event, which is then added to stored track in memory" at col. 6, lines 53-54 in Moline et al. Moline teaches *judging means for judging from the time information contained in the data whether the time information in the data temporarily stored in said storage means is later than the time counted by said timer means* as "MIDI stream generator generates MIDI stream from stored track as follows: ... set the timer and wait for it to expire again" at col. 7, lines 10-20 in Moline et al. Moline teaches *processing means starting the processing of the data temporarily stored in said storage means if said judging means judges that the time information in the data is later* as "output event messages until either an event is reached whose time stamp is greater" at col. 7, lines 15-16 in Moline et al. Moline teaches the invention in claim 1 except for explicitly *starting a timer count*. In that Moline operates to buffer data for quasi-real time play the artisan would have looked to the computer data streaming arts for details of buffering signals. In that art, Shioda, a related data buffering system, teaches a "basic delay time", col. 4, lines 37 in order to delay "a voice and/or musical tone

produced by an electronic musical instrument”, col. 4, lines 37-38. Shioda, specifically teaches that “a basic delay time-calculating routine for calculating a basic delay time based on a timing clock of a MIDI signal is started” at col. 4, lines 46-48. A timing clock is taught that is used to calculate delay times. Further, Shioda suggests that “an excellent repeat effect to the performance”, col. 1, lines 65-66 will result from applying the delay times. The motivation to incorporate a timer insures that a reference time is used to accurately apply delay times. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the timer as taught in Shioda into the MIDI player described in the Moline patent because Moline operates with timers to achieve streaming data and Peterson suggests that streaming of data can be obtained with timers and delay times. Therefore, by the above rational, claim 1 is rejected.

6. Claim 3 further describes *the data includes MIDI data* which is disclosed as “MIDI controller may be modified to play a Format MIDI file” (see Moline et al. col. 5, lines 56-57), therefore, claim 3 is rejected.

7. Claim 4 further describes *the predetermined time is made variable in accordance with a storage capacity of said storage means* which is disclosed as “that event occurs whenever a timer set by MIDI stream generator runs out ... MIDI stream generator sets the timer to run out after an interval” (see Moline et al. col. 6, lines 2-023), therefore, claim 4 is rejected.

8. Claim 5 further describes *said reception means receives delay time information, and said judging means judges whether the predetermined time represented by the delay time information has passed* which is disclosed as “the amount of track that must be accumulated before receiver begins playing the track is determined by a delay parameter set by the user of receiver” (see Moline et al. col. 12, lines 1-3), therefore, claim 5 is rejected.

9. Claim 6 further describes *the predetermined time is made variable in accordance with a distance to an access point where the data is received* which is disclosed as "is received with a delay which dependent upon the path(s) in Internet by which the packets carrying track are sent" (see Moline et al. col. 11, lines 41-43), therefore, claim 6 is rejected.

10. Regarding claims 8, 16, 19 and 22, Moline teaches *adding means for adding a delay time to the time information in the data received by said reception means* as "the delay period is then added to the server start time to obtain a play start time", col. 13, lines 10-12. Thus, the above claim limitations are obvious in view of the combination.

11. Claim 11 further describes *said reception means receives delay information, and said storage means stores the data by adding the delay time represented by the delay information in the data* which is disclosed as the "elapsed time descriptor specifies the time elapsed since the last event message; time stamp contains the sum of the elapsed times in all of the time descriptors from the beginning of the track to the current event" (see Moline et al. col. 6, lines 51-55), therefore, claim 11 is rejected.

12. Claims 7, 9-10 and 12-22 are rejected based on the rational explained for claims 1-6 and 11 above due to the fact the components disclosed in the references above perform all the steps described in claims 7, 9-10 and 12-22.

Response to Amendment

18. Applicant suggests "Moline fails to disclose actual ways of waiting to begin playing streaming data such as a timer that is set late by subtracting a delay time or an adder that adds a delay time information derived from the streaming data" in Paper No. 6, Page 7, lines 26-28.

However, as described above in Moline, time delay and delay transformation are taught by “the preferred embodiment waits to begin playing track until enough of track has accumulated in receiver”, col. 11, lines 63-65, “the delay varies . the preferred embodiment waits to begin [subtracts] playing track until enough of track has accumulated” (see Moline et al. col. 11, lines 59-64) and “beginning at the start of stored track, the time stamp of each event is added to the server start time and subtracted from the play time”, col. 13, lines 12-14 and “the delay period is then added to the server start time to obtain a play start time”, col. 13, lines 10-12. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

Conclusion

13.. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Asta, can be reached on (703) 305-3817. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-9731.

17. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

sfw *SW*

February 17, 2000



MARK H. RINEHART
PRIMARY EXAMINER